



A Publication of the
FUNERAL DIRECTORS EXAMINING BOARD

Volume 11, No. 2

February, 2002

Survey of Opinion

The Board has requested that funeral directors inform the Board of any provisions in Chapter 445, Wis. Stats., or of any of the FD rules which licensees believe should be added to, amended or repealed. You may be inclined to suggest some changes because the provisions are obsolete. Other suggested changes may be for other reasons. The most effective and efficient way to send suggestions is to send an e-mail message to clete.hansen@drl.state.wi.us.

Proposed Crematory Regulation

The Board has worked its way through several drafts during the last year and has now received a draft that has been prepared by the Legislative Reference Bureau. This draft is now being fine-tuned, so that it can be introduced in the Legislature early next year. Time is running out; however, the Board intends to work hard to get the bill passed in what remains of the 2001 legislative session.

This proposed regulation would require that crematories be licensed by the Board or the Department. The regulation would also address a

variety of issues relating to the authority of a person to authorize a cremation, the delivery and acceptance of human remains, cremation requirements, the disposition of cremated remains, liability issues pertaining to crematories and funeral directors, and other related issues.

The Wisconsin/Badger State Cemetery Association has requested more discussion of the provisions in the bill draft that require the Funeral Directors Examining Board to license and discipline (if necessary) crematories operated by funeral directors and that require the Department to license and discipline (if necessary) crematories operated by cemeteries or other persons. The exact location where the crematory regulation would be placed in the Wisconsin Statutes has also been a matter of additional discussion.

Renewal of Licenses and Continuing Education

Licensed funeral directors should have received their license renewal application and instructions for renewal by now. One thing to keep in mind this year is that the Board will be conducting a random sample survey and requesting that a certain percentage of licensees send to the Department proof of the continuing education credits that they obtained during the previous licensing biennium.

**THE WISCONSIN FUNERAL DIRECTORS
EXAMINING BOARD**

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Complaint Statistics

The complaint statistics for January 1, 2001 through November 5, 2001, were as follows:

Complaints Received – 31
Complaints Closed After Screening – 14
Complaints Closed After Investigation – 4
Complaints Closed With Formal Action – 3

Licensing Statistics

Statistics relating to the number of funeral director licenses issued during each of the past 5 years are as follows:

1996: 44	1999: 54
1997: 42	2000: 57
1998: 52	

Statistics relating to the number of funeral director licenses renewed at the end of the last 5 bienniums are as follows:

1991: 1,104	1997: 1,177
1993: 1,142	1999: 1,227
1995: 1,230	

Examination Update

The Board no longer administers the Funeral Service Science and Funeral Service Arts examinations. The last date on which a person could sit for these exams was October 18, 2001. The Board now administers just the Wisconsin State Laws and Rules Examination. The exam will be given each month at four different sites:

Madison: Department of Regulation and Licensing
Eau Claire: Chippewa Valley Technical College
Green Bay: Northeast Wisconsin Technical College
Waukesha: Waukesha County Technical College

To be eligible for licensure, an applicant must provide the Board with official verification of the passing score on the NBE (administered at other locations chosen by the International Conference of Funeral Service Examining Boards), complete the education requirements, complete the one-year apprenticeship, and submit the licensure application.

Legislative Update – Biennial Budget Bill

Governor Scott McCallum signed the Biennial Budget Bill into law as 2001 Wisconsin Act 16. Some provisions to note regarding funeral directors are as follows:

Certificates in Good Standing. The Biennial Budget Bill would have eliminated certificates of good standing and would have provided a grace period for converting a currently-held certificate in good standing to an active funeral directors license. However, this provision was removed from the bill early in the legislative process.

Increase Irrevocable Trust Funds. The maximum amount of trust funds that may be made irrevocable under a burial agreement was increased from \$2,500 to \$3,000. This increase takes effect on July 1, 2003.

Fee Changes. Original registration fees for all occupations and professions licensed by the Department increased from \$44 to \$53. Renewal fees for funeral directors decreased from \$140 to \$135. Funeral establishment renewal fees increased from \$47 to \$56.

Winter Burials: New requirements for winter burials were enacted. See the article below.

Winter Burials

The Department recently sent the following notice to registered cemeteries in Wisconsin:

TO: Officials of Cemeteries Registered in Wisconsin

This is a reminder that 2001 Wisconsin Act 16, the Biennial Budget Bill, created the following new section in Chapter 157 of the Wisconsin Statutes:

157.114 Duty to provide for burials. (1) In this section “cemetery authority” does not include a municipality that takes control of a cemetery under 157.115 (1) (b).

(2) A cemetery authority shall, insofar as practicable, provide for burials during each season, including winter. Nothing in this subsection may be construed to prohibit a cemetery authority from charging a reasonable fee to recover the costs related to providing for a burial during difficult weather conditions.

This new law is now in effect and you should be complying with it at this time. Representatives of the Department have had discussions with various persons about the meaning of “practicable” in the new law. Please note that this term is not defined in the law. However, we believe that you should make a serious effort to determine what your costs would be to make burials under certain winter conditions at your cemetery and to have your price list available, so you can provide it upon request. Perhaps, under some conditions you will not be able to make a burial. If such is the case, you should be prepared to make a reasonable statement as to why you can’t do so at a certain, specific time.

Since the new law was created in Chapter 157, Subchapter II, the enforcement provisions at the end of Subchapter II will apply. These provisions read, as follows:

157.64 Penalties. (1) In addition to or in lieu of other remedies provided by law, any person who violates this subchapter or any rule promulgated under this subchapter may be required to forfeit not more than \$200 for each separate offense. Each day of continued violation constitutes a separate offense.

157.65 Enforcement. (1) (a) If the department of regulation and licensing has reason to believe that any person is violating or has violated this subchapter or any rule promulgated under this subchapter and that the continuation of that activity might cause injury to the public interest, the department of regulation and licensing may investigate.

(b) If the department of commerce has reason to believe that any person is violating s. 157.12 or any rule promulgated under s. 157.12 and that the continuation of that activity might cause injury to the public interest, the department of commerce may investigate.

(2) The department of justice or any district attorney, upon informing the department of justice, may commence an action in circuit court in the name of the state to restrain by temporary or permanent injunction any violation of this subchapter. The court may, prior to entry of final judgment, make such orders or judgments as may be necessary to restore to any person any pecuniary loss suffered because of the acts or practices involved in the action, if proof of such loss is submitted to the satisfaction of the court. The department of justice may subpoena persons and require the production of books and other documents, and may request the department of regulation and licensing or the department of commerce to exercise its authority under sub. (1) to aid in the investigation of alleged violations of this subchapter.

(3) In lieu of instituting or continuing an action under this section, the department of justice may accept a written assurance of discontinuance of any act or practice alleged to be a violation of this subchapter from the person who has engaged in the act or practice. An assurance entered into under this subsection shall not be considered evidence of a violation of this subchapter, but a violation of the assurance shall be treated as a violation of this subchapter.

Administrative Rule Changes

Please note the following administrative rule changes, especially those that will affect your choice of continuing education programs next year:

FD 1.07 Apprenticeship credit. (2) An apprentice may receive credit for no more than 9 embalmings in any one quarter of his or her apprenticeship. At the conclusion of an apprenticeship, an apprentice shall have completed a total of 25 embalmings.

FD 4.03 Continuing education. (4m) At least 3 hours of the 15-hour requirement shall be in each of the subject areas specified in s. FD 4.04 (1) (a) 1. to 4. [Note: Sub. (4) also remains in effect.]

(5) No more than 7 hours of all of the 15-hour requirement may be in approved programs in s. FD 4.04 (7). [Note: This replaces the former sub. (5).]

FD 4.045 Qualifications for continuing education instructors. Instructors for continuing education shall possess one of the following minimum qualifications:

(1) Be an instructor of funeral directing who is or has been engaged in the practice of teaching at an accredited institution of higher education.

(2) Be a properly licensed or certified person for the 5 years immediately before becoming a continuing education instructor.

(3) Be a person who, in the judgment of the board, is qualified by experience or education, or both, to supervise a course of study.

Peter Schils' Term Ends

Peter Schils' last meeting with the Funeral Directors Examining Board was on November 6, 2001. He had served on the Board since November 1997, and he requested not to be appointed to another term. Mr. Schils, of Sheboygan, Wisconsin, had previously been a member of the Real Estate Board for 8 years. The Funeral Directors Examining Board expressed gratitude to Mr. Schils for being an active public member on the Board.

Management of Funeral Establishments

Legislation has been introduced in each house of the Wisconsin Legislature that proposes to permit a licensed funeral director to be in charge up to three funeral establishments without being at any one of them full-time. The companion bill numbers are AB 376 and SB 171. There has been a hearing on the bills in each house; however, another suggestion has been offered by some funeral directors and it is also being considered. The other suggestion relates to the current requirement that each funeral establishment have a preparation room. The proposed amendment reads: "No permit to operate a funeral establishment shall be issued by the examining board unless each such the funeral establishment has a preparation room and has in charge, full time therein, a licensed funeral director, except that a licensed funeral director may be in charge of no more than 3 funeral establishments if at least one of the funeral establishments has a preparation room.

This amendment is opposed by some members of the industry.

Disciplinary Actions

**CHARLES A O'BRIEN
GREEN BAY WI**

SUSPENDED/COSTS

The final billing for a direct cremation funeral service was in excess of the amount quoted to the consumer. Discrepancies were found with charges made to various clients, the majority of which involved obituary notices. Gave misleading and deceptive information to family and persons involved in funeral arrangements. Failed to retain trust records. Suspend for three months commencing 10/19/2001. Costs of \$1500.00. Effective 10/19/2001. FD 3.02(1),(3),(6),(9), 2.02(1),(2) Case #LS0109192FDR

**DANIEL T PANNELL
EAU CLAIRE WI**

REVOKED

Found guilty of one count of Criminal Trespass to Dwelling; one count of Theft-Business Setting; one count of Theft-False Misrepresentation. These convictions involved theft of cash and checks from memorials for two decedents and theft of a business credit card from a funeral home. Was found guilty of one count of Theft of Movable Property. This conviction involved theft of items from open houses at homes that were for sale. Shall not reapply for a funeral director's license. Effective 7/17/2001. Secs. 943.14, 943.20(1)(a),(b),(d), Wis. Stats. Case #LS0105091FDR

REGULATORY DIGEST

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RETURN SERVICE REQUESTED

New Telephone Directory

The Department of Regulation and Licensing has recently implemented an IVR Auto-Attendant Telephone System. This system may be accessed 24 hours a day for computerized licensing information. We ask for your patience as we perfect the system and remove some of the bugs we have encountered. You may continue to dial the following telephone number; **however, the extension numbers that had been published in past issues of the Regulatory Digest are no longer valid.** Please listen to the new menu for the new extension numbers. The number to dial is:

(608) 266-5511

Our Fax Number is: **(608) 267-3816**

Visit the Department's Web Site

www.drl.state.wi.us

For our new "Online Verification of Credential Holders" click on the "Business and Professional License Lookup" button on the Department's home page.

Copies of the Regulatory Digest are on the Web.

Send comments to web@drl.state.wi.us

Wisconsin Statutes and Code

Copies of the Wisconsin Statutes and Administrative Codes Relating for the Funeral Directors Examining Board can be ordered from the Department. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated January 2001.

Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes is not automatically provided.

SECTION. 440.11, STATS., ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

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